

Message Text

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ORIGIN EA-09

INFO OCT-01 ISO-00 PM-04 L-03 H-02 CIAE-00 INR-07 NSAE-00

VA-01 SY-05 A-01 /033 R

DRAFTED BY: EA/PHL: ASWIFT/OSD/ISA:SGOLDSMITH:JAK

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NAVYJAG:JWALKER

PM/ISO:JSCOTT

L/EA:EVERVILLE

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R 222117Z DEC 75

FM SECSTATE WASHDC

TO AMEMBASSY MANILA

INFO SECDEF

NAVY JAG WASHDC

CINCPACAF HICKAM AFB

CSAF (JSCI)

DIA (AH-6)

CINCPACREP PHILIPPINES SUBIC BAY RP

NAVLEGSVCOFF SUBIC BAY RP

CINCPAC HONOLULU HI

CINCPACFLT MAKALAPA HI

13TH AF CLARK AFB

3 CSG CLARK AFB

C O N F I D E N T I A L STATE 300622

E.O. 11652: GDS

SUBJECT: COMPULSORY NO-FAULT MOTOR VEHICLE INSURANCE AND USG
VEHICLES IN PHILIPPINES

REF: MANILA 14708

1. REGRET DELAY IN REPLY. FOLLOWING PROVIDED IN RESPONSE

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QUESTIONS RAISED REFTEL RE VEHICLES OWNED AND OPERATED BY

ORGANIZATIONS WHICH COME UNDER THE PROVISIONS OF THE MILITARY BASES AGREEMENT.

2. SPAIN IS ONLY COUNTRY IN WHICH MAJOR U.S. FORCES ARE STATIONED WHERE AGREEMENT REQUIRES INSURANCE FOR USG VEHICLES. SPANISH ARRANGEMENT HAS GENERALLY PROVEN TO BE LESS THAN SATISFACTORY IN OPERATION. SPANISH INSURER FOR USG VEHICLES, FONDO NACIONAL DE GARANTIA DE RIESGOS DE LA CIRCULACION, IS AGENCY OF GOS. ACCIDENT REPORTS ARE FORWARDED TO FONDO WITHIN EIGHT DAYS OF ACCIDENT, BUT FONDO IS SUBJECT TO RATHER LOW LIMITS AND TOO FREQUENTLY IS DILATORY IN PAYMENT OF CLAIMS. OFTEN CLAIM MUST BE PAID BY U.S. FORCES.

3. WE CONSIDER ARTICLE XXIII, MBA, TO BE EXCLUSIVE REMEDY FOR SETTLEMENT OF TORT CLAIMS INVOLVING US MILITARY VEHICLES.

IN VIEW EXCLUSIVITY ARTICLE XXIII, FACT THAT COMPULSORY INSURANCE REQUIRED FOR GOP VEHICLES NOT CONSIDERED CONTROLLING OR PERTINENT. THERE IS ALSO A SUBSTANTIAL DIFFERENCE BETWEEN PAYMENT OF PREMIUM BY ONE GOP AGENCY TO ANOTHER AND PAYMENT BY USG TO GOP AGENCY.

4. EMBASSY IS CORRECT IN ITS ASSESSMENT THAT STATUTES UNDER WHICH ARTICLE XXIII CLAIMS ARE PAID (FOREIGN CLAIMS ACT, 10 U.S.C. 2734; MILITARY CLAIMS ACT, 10 U.S.C. 2733) DO NOT REQUIRE PROOF OF FAULT OR NEGLIGENCE. BY VIRTUE OF THESE STATUTES, USG IS SELF-INSURER OF US MILITARY VEHICLES

AND MAY PAY MERITORIOUS CLAIMS UNDER APPLICABLE MILITARY

REGULATIONS. THESE STATUTES DO NOT APPLY TO VETERANS ADMINISTRATION. TORT CLAIMS AGAINST VA ARE ADMINISTRATIVELY SETTLED UNDER 38 U.S.C. 236, WHICH REQUIRES PROOF OF NEGLIGENCE OR WRONGFUL ACT.

5. WE BELIEVE DEPARTURE FROM ARTICLE XXIII OF MBA WOULD NOT BE IN INTERESTS OF USG OR GOP. IF CLAIM NOT PAID PROMPTLY AND ADEQUATELY, ILL WILL OF FILIPINO CLAIMANTS WOULD TARNISH USG IMAGE, ADVERSELY AFFECT RELATED FCJ
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CASES AND FRUSTRATE PURPOSE OF FOREIGN CLAIMS ACT "TO PROMOTE AND MAINTAIN FRIENDLY RELATIONS THROUGH THE PROMPT SETTLEMENT OF MERITORIOUS CLAIMS." A CLAIMANT INJURED BY USG IS NOT EASILY PERSUADED TO TRANSFER HIS WRATH TO AGENCY OF HIS OWN GOVERNMENT IN EVENT OF DELAYS OR DISPUTE OVER AMOUNTS PAID. FURTHERMORE, AS EXPERIENCE IN SPAIN HAS SHOWN, BOTH PAYMENT OF PREMIUM AND SETTLEMENT OUT OF U.S. POCKET IS OFTEN REQUIRED, THUS RESULTING IN INCREASED

COST TO USG.

6. FOR ABOVE REASONS, EMBASSY SHOULD FIRMLY RESIST ANY
PHIL EFFORTS TO APPLY COMPULSORY INSURANCE LAW TO U.S.
MILITARY VEHICLES.

7. SEPARATE MESSAGE WILL ADDRESS QUESTION OF VEHICLES
OF VA AND MILITARY AGENCIES ATTACHED TO AND REGISTERED
BY EMBASSY.
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Message Attributes

Automatic Decaptioning: X
Capture Date: 01 JAN 1994
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: AUTOMOBILES, ACCIDENT INSURANCE, MILITARY POLICIES
Control Number: n/a
Copy: SINGLE
Draft Date: 22 DEC 1975
Decaption Date: 01 JAN 1960
Decaption Note:
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Authority: RowellE0
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 28 MAY 2004
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1975STATE300622
Document Source: CORE
Document Unique ID: 00
Drafter: EA/PHL: ASWIFT/OSD/ISA:SGOLDSMITH:JAK
Enclosure: n/a
Executive Order: GS
Errors: N/A
Film Number: D750445-0057
From: STATE
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1975/newtext/t19751221/aaaaasla.tel
Line Count: 125
Locator: TEXT ON-LINE, ON MICROFILM
Office: ORIGIN EA
Original Classification: CONFIDENTIAL
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 3
Previous Channel Indicators: n/a
Previous Classification: CONFIDENTIAL
Previous Handling Restrictions: n/a
Reference: 76 MANILA 14708
Review Action: RELEASED, APPROVED
Review Authority: RowellE0
Review Comment: n/a
Review Content Flags:
Review Date: 23 JUL 2003
Review Event:
Review Exemptions: n/a
Review History: RELEASED <23 JUL 2003 by ShawDG>; APPROVED <20 NOV 2003 by RowellE0>
Review Markings:

Margaret P. Grafeld
Declassified/Released
US Department of State
EO Systematic Review
06 JUL 2006

Review Media Identifier:
Review Referrals: n/a
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
Secure: OPEN
Status: NATIVE
Subject: COMPULSORY NO-FAULT MOTOR VEHICLE INSURANCE AND USG VEHICLES IN PHILIPPINES
TAGS: MILI, RP
To: MANILA
Type: TE
Markings: Margaret P. Grafeld Declassified/Released US Department of State EO Systematic Review 06 JUL 2006